

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

SUSAN KELLY,

Plaintiff,

v.

LIFESECURE INSURANCE
COMPANY,

Defendants.

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C.A. No. 4:15-cv-398

NOTICE OF REMOVAL

Defendant LifeSecure Insurance Company (“Defendant”), for the purpose only of removing this cause to the United States District Court for the Northern District of Texas, Fort Worth Division, and without waiving any defenses, files this notice of removal and states:

1. **State Court Action.** This is an action filed by Plaintiff Susan Kelly (“Plaintiff”) on April 6, 2015 in the 348th District Court of Tarrant County, Texas, being numbered 348-277733-15 on the docket of said court, and being a suit by Plaintiff to recover benefits under a life insurance policy.

2. **Diversity of Citizenship.** This action is removable under 28 U.S.C. § 1332. Plaintiff is a citizen of Texas. Defendant is a Michigan corporation with its principal place of business in Brighton, Michigan. [Declaration, Exhibit A, ¶ 2.] Thus, Plaintiff is a citizen of Texas, and Defendant is a citizen of Michigan for removal purposes. There is

complete diversity of citizenship between Plaintiff and Defendant at the time of filing suit and at the time of removal.

3. **Amount in Controversy.** The amount in controversy is also met, as the damages sought by Plaintiff exceed the sum of \$75,000.00, exclusive of interest and costs. Specifically, Plaintiff's Original Petition (the "Petition") states that she is seeking more than \$200,000.00 in monetary relief, but not more than \$1,000,000.00. [Petition, ¶ 2.] Since Plaintiff's Petition on its face shows that the amount in controversy exceeds \$75,000.00, removal is proper and the amount in controversy is satisfied. *See Manguno v. Prudential Prop. & Cas. Ins. Co.*, 276 F.3d 720, 723 (5th Cir. 2002) (removal is proper and amount in controversy is satisfied when it is apparent from the face of the petition that plaintiff's claims are likely to exceed \$75,000.00). Moreover, Plaintiff is seeking attorneys' fees under Texas Civil Practice and Remedies Code § 38.001, which also is counted toward determining the amount in controversy. *See Choate v. St. Farm Mut. Auto. Ins. Co.*, 62 F.3d 395, at *2 (5th Cir. 1995) (unpublished opinion) (including fees sought under § 38.001 when calculating amount in controversy while noting "[i]t is well established that attorneys' fees may be included in determining the amount in controversy for diversity jurisdiction"). Thus, it is clear that the amount in controversy is met. This action is wholly of a civil nature.

4. **State Court Documents Attached.** Defendant was served with process on April 28, 2015. This Notice of Removal is therefore timely under 28 U.S.C. § 1446(b). Attached as Exhibits "B" through "H" are true and correct copies of the process, pleadings, or orders received by Defendant and the documents that were in the state

court's file as of the filing of this removal. Pursuant to Rule 81.1 of the Local Rules of the Northern District of Texas, the following documents are attached to the Notice as corresponding numbered exhibits:

<u>Document</u>	<u>Date Filed/Issued</u>
B. Plaintiff's Original Petition with Disclosure Request as served on Defendant	04/06/2015
C. Plaintiff's Original Petition with Disclosure Request	04/06/2015
D. Civil Case Information Sheet	04/06/2015
E. Letter to district clerk requesting issuance of citation	04/15/2015
F. Citation with executed Officer's Return	04/28/2015
G. Defendant's Original Answer	05/15/2015
H. Docket Sheet	05/21/2015

5. **Notice.** Defendant will give notice of filing of the Notice of Removal to all parties of record pursuant to 28 U.S.C. § 1446(d) and will file with the state court a notice of filing this Notice of Removal.

6. **Prayer.** Defendant prays that the United States District Court for the Northern District of Texas, Fort Worth Division, accept this Notice of Removal, that it assume jurisdiction of this cause, and that it issue such further orders and processes as may be necessary to bring before it all parties necessary for the trial hereof.

Dated: May 22, 2015

Respectfully submitted,

By: /s/ Andrew G. Jubinsky

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ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing document has been served on the parties listed below on May 22, 2015.

Via CMRRR:

Mark S. Humphreys

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Grand Prairie, Texas 75050

/s/ Andrew G. Jubinsky

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